

# MICHIGAN'S LIQUOR LAWS & RULES



## A Guide for Retail Liquor Licensees

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Michigan Department of Labor & Economic Growth (DLEG)  
Jennifer Granholm, Governor  
Robert Swanson, Department Director

[www.michigan.gov/lcc](http://www.michigan.gov/lcc)



# Table of Contents

Preface	5
Introduction	6
The Liquor Control Code and Administrative Rules	6
Enforcement of Liquor Laws and Rules	7
Types of Retail Licenses	8
Special Permits	9
Illegal Sales	10
Minors	10
Examining the Identification	12
Intoxicated Customers	15
Dram Shop Liability	17
Prohibited Conduct	19
Drugs, Violence, Gambling, Sexual Activity, Etc.	19
Operating the Licensed Business	22
Hours and Days of Operation	22
License and Location	23
Purchases and Sales	25
Taxes	26
Promotions	28
Commission Contact Directory	29

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## **Preface**

Whether liquor licensees serve mixed drinks to people attending a convention in Detroit, serve a bottle of wine to dinner guests at a restaurant in Marquette, or sell a six-pack of beer to a group on their way to a private beach party in Grand Haven, they are playing an important role in Michigan's dynamic hospitality industry. However, this role as a businessperson and host demands accountability for the selling and serving of alcoholic beverages – social and legal accountability which may not be demanded of other types of retailers for the goods they sell. In fact, state law requires that 55% of all retail liquor license fees collected in Michigan be returned to local law enforcement agencies specifically for use in enforcing the liquor law and rules.

The goal in developing this guide is to provide an easy-to-use reference for Michigan liquor licensees and their employees. Therefore, the focus of the guide is on the laws and rules which traditionally have resulted in the most licensee violations.

We have tried to write this material in a style that will be readily understood by most licensees. **However, it is important to realize that this booklet is an information tool and not a legal document – nothing in this guide changes, replaces, or supercedes the Michigan Liquor Control Code, the Michigan Liquor Control Commission (MLCC) Administrative Rules or and other Michigan statutes.** Anyone desiring precise legal language may purchase a copy of "The Michigan Liquor Control Code, Rules, and Related Laws Governing the Sale and Manufacture of Alcoholic Beverages" which is available for \$5.00 from the MLCC. The Code can also be printed from our web site at <http://www.michigan.gov/lcc>

General information is presented at the front of the guide, followed by a synopsis of liquor laws and rules arranged by subject. Due to the seriousness of certain violations, the first topics covered are those dealing with serving minors and intoxicated persons followed by brief information on the Dram Shop liability statutes. The remaining items deal with prohibited conduct, miscellaneous illegal activities, and the laws and rules that govern the operation of a licensed business. Questions and answers are included at the end of each section to provide examples of how the laws and rules may be applied in real situations.

If you have questions about any of the laws or rules (including those which may not be covered in this guide), contact one of the MLCC Enforcement offices listed on the back cover of this guide. Your comments and suggestions for future editions of the guide are always welcomed.

## **MICHIGAN LIQUOR CONTROL COMMISSION**

Nida Samona, Chairperson  
Pat Gagliardi, Administrative Commissioner  
Virgie Rollins, Hearing Commissioner  
James Storey, Hearing Commissioner  
Judith Allen, Administrative Commissioner

# INTRODUCTION

## *The Liquor Control Code & Administrative Rules*

### References Used

The citations for references inserted in this guide are:

*MCL* – Refers to the citation number in the Michigan Compiled Laws.

*Rule* – Refers to the citation number in the Michigan Administrative Code.

The reference sources provide specific details on the topics being covered.

### Availability of References

Because this guide does not cover every aspect of the laws and rules, and because it does not contain exact legal language, you may want to purchase a copy of ***The Michigan Liquor Control Code, Rules, and Related Laws Governing the Sale and Manufacture of Alcoholic Beverages*** as described in the Preface.

The Liquor Code and Administrative Rules are also available for viewing and printing from our web site at: <http://www.michigan.gov/dleg>

### Definitions

#### **Liquor & Alcoholic Beverage**

The Liquor Control Code (436.1105) defines “alcoholic liquor” as any beverage “containing one-half of one percent or more of alcohol by volume.” This includes beer, wine and distilled spirits. However, in this guide, “**liquor**” is used to mean “distilled spirits” which is commonly understood to mean an alcoholic beverage with 21% or more alcohol by volume. “**Alcoholic beverages**” in this booklet means any beverage intended for human consumption that contains more than one-half of one percent alcohol by volume.

#### **Minor**

For most legal purposes, a minor is defined as someone who is less than 18 years old.

However, for purposes of buying, consuming, or possessing alcoholic beverages for personal use, a person who is less than 21 years of age is considered a minor. **The term “minor” used in this guide indicates a person who is less than 21 years old.**

#### **Sale**

A Sale as defined by the Liquor Commission is more than what is normally considered an exchange of money and goods:

- a. “Sale,” as defined in the Liquor Control Code, also includes the “exchange, barter or traffic, furnishing or giving away of alcoholic beverages.”
- b. The sale is considered complete when the exchange of possession of the alcoholic beverages takes place. Pay particular attention to this concept when considering questions of legal hours, furnishing alcohol to minors, and furnishing alcohol to intoxicated persons.

## INTRODUCTION

### *Enforcement of Liquor Laws & Rules*

#### **Authority (MCL 436.1201(4))**

In addition to MLCC investigators, the following officials have the authority and duty to enforce Michigan liquor laws:

Michigan State Police  
City and Township police officers  
County sheriffs and deputies  
Village marshals, constables, or police officers  
State University or Community College police officers

#### **Inspections and Investigations (MCL 436.1217)**

Investigators for the Commission, and state or local law enforcement officials may inspect any licensed business that sells alcoholic beverages to determine compliance with Michigan liquor laws and rules. Inspections may be made during normal business hours, or at any time when the premises is occupied.

#### **Obstructing Liquor Investigators or Local Police (Rule 436.1011(3))**

Licensees and employees shall not obstruct a police officer or an investigator of the Commission who is investigating or inspecting the licensed premises for Liquor Code and Rule requirements.

#### **Citations for Violations of Liquor Laws and Regulations**

Anyone who has the authority to enforce Michigan's liquor laws and rules may report alleged violations to the MLCC. **Violation Reports** are sent to the Office of the Assistant Attorney General (AAG) assigned to the Commission. If the AAG determines that there is evidence that a violation took place, a formal **Violation Complaint** will be filed against the licensee.

The AAG will normally file a separate charge in the Violation Complaint for each section of the Liquor Control Code or Administrative Rules that was reportedly violated. For example, if an enforcement officer observes a bartender selling alcoholic beverages to someone under age 21, and the customer is also observed consuming the alcoholic beverage, the AAG will cite (1) a violation of the Liquor Control Code for the selling of the alcoholic beverage to the person under 21, and (2) a violation of the Administrative Rules of the Commission for allowing the underage person to consume alcoholic beverages on the licensed premises.

# INTRODUCTION

## *Types of Retail Licenses*

### **On-Premise Retail Licenses**

These licenses are issued for the type of business where alcoholic beverages are served on the premises:

- **Class C**      This license allows the business to sell beer, wine, liquor and mixed spirit drinks for consumption on the premises.
- **Club**        This license enables a private club to sell beer, wine, liquor and mixed spirit drinks to bona fide members only.
- **B Hotel**      This license permits a hotel to sell beer, wine, liquor and mixed spirit drinks for consumption on the premises and in the rooms of bona fide guests.
- **A Hotel**      This license allows a hotel to sell only beer and wine for consumption on the premises and in the rooms of bona fide guests.
- **Tavern**        This license enables a business to sell only beer and wine for consumption on the premises.
- **Brewpub**      This license is issued in conjunction with an on-premise license authorizing the licensee to manufacture and sell beer for consumption on the premises or for take-out.
- **Micro Brewer**      This manufacturing license allows a business to sell beer produced on the premises to consumers for consumption on or off the premises.
- **Resort**        Resort licenses, Resort economic development licenses and SDD Resort licenses can be issued for Class C, A-Hotel, B-Hotel, Tavern and SDD classifications. These licenses are available only after all the licenses allowed under the quota are issued and if the business to be licensed will directly benefit tourism or visitors.

An on-premise licensee may also hold a Specially Designated Merchant (SDM) license to sell beer and wine for consumption off the premises.

### **Off-Premise Retail Licenses**

These licenses are issued for the type of business where alcoholic beverages are sold for consumption elsewhere, and where consumption on the premises of the retailer is not allowed. The two types of off-premise licenses are:

- **SDD**      Specially Designated Distributor. This license permits the licensee to sell liquor and mixed drinks (distilled only) for consumption off the licensed premises.
- **SDM**      Specially Designated Merchant. This license allows the licensee to sell only beer and wine for consumption off the licensed premises.  
A SDD licensee can, and usually does, hold a SDM license.

## INTRODUCTION

### *Special Permits*

*Special Activity Permits are available to eligible retail licensees for a variety of activities. An inspection fee is charged for these permits and for most of them, local police and/or local government approval must be obtained before the Commission will grant the permit. A detailed fact sheet on Special Permits is available from the MLCC.*

<i>Sunday Sales</i>	<b>For On-premise (Class C, B-Hotel and Club), Off-premise (SDD) and Resort (Class C, B-Hotel and SDD) licensees.</b> Allows the sale of liquor between noon and midnight on Sundays if permitted by the local government. (Permit not needed for beer and wine sales).
<i>After-hours Food</i>	<b>For all On-premise licensees (including Resorts).</b> Allows a business with a full-service kitchen to remain open for the sale of food between 2:30 a.m. and 7:00 a.m. Monday through Saturday, and from 2:30 a.m. and noon on Sunday. Sale or consumption of alcoholic beverages during these times is prohibited. Local police approval is required.
<i>Dance</i>	<b>For all On-premise licensees.</b> Allows dancing by patrons in a designated area. Police and local government approval are required.
<i>Entertainment</i>	<b>For all On-premise licensees.</b> Permits certain types of live performances on the licensed premises. Approval of police and local government is required. (The permit is not needed for playing musical instruments, singing or for public TV.) An Entertainment permit does not allow topless activity.
<i>Topless Activity</i>	<b>For On-premise licensees, as applicable.</b> Allows topless activity on the licensed premises by employees, agents, contractors of the licensee or any person under the control of or with the permission of the licensee.
<i>Bowling, Golf, Ski Misc.</i>	<b>For On-premise licensees, as applicable.</b> Generally allows the business to operate without the sale of alcoholic beverages before or after the legal hours for liquor sales. Police approval is required.
<i>Outdoor Service</i>	<b>For all On-premise licensees.</b> Permits the sale and consumption of alcoholic beverages in areas outside the licensed premises. Local police approval is required.
<i>Additional Bar</i>	<b>For Class C, B-Hotel, Class C Resort, and B-Hotel Resort licensees.</b> Required for each additional bar where customers may buy alcoholic beverages.
<i>Direct Connection Approval</i>	<b>For all retail licensees.</b> Allows connecting the licensed business to an unlicensed area not under direct control of the licensee. Local police approval is required.
<i>Living Quarters</i>	<b>For On-premise (Class C, Tavern), Off-premise (SDD, SDM) and Resort (Class C, Tavern, SDD) licensees.</b> Allows living quarters to be directly connected to the licensed premises. Local police approval is required.
<i>Banquet Facility</i>	Extension of an on-premise license for the serving of alcoholic beverages at a facility used only for scheduled functions and events. Sale of food and non-alcoholic beverages must be at least 50% of gross sales at an on-premise location within the state. The permitted premises must be under the sole control of the licensee.

## ILLEGAL SALES

### *Minors*

- ▶ **Do not sell, furnish or give alcohol to anyone under 21 years of age.** [MCL 436.1801 and 436.1701]
- ▶ **Do not allow a person under 21 years of age to consume or possess for consumption, alcoholic beverages on the licensed premises.** [Rule 436.1009]
- ▶ **Do not allow a person who is less than 18 years of age to sell or serve alcoholic beverages.** [Rule 436.1009]

### Licensee Penalties

There are serious penalties for selling or furnishing alcoholic beverages to minors:

<b><i>Misdemeanor</i></b>	A liquor licensee or an employee of the licensee who sells or furnishes alcoholic beverages to a minor may be found guilty of a misdemeanor.
<b><i>MLCC Violations</i></b>	A licensee who sells or furnishes to a minor, or whose employees sell or furnish to a minor or who allow a minor to consume alcoholic beverages, may be charged with a violation of the Liquor Control Code or Rules. Penalties for violations, especially repeat violations, can be very severe, including the loss of the liquor license and fines up to \$1,000 per charge.
<b><i>Loss of License</i></b>	The local unit of government can request that the MLCC revoke the license of an off-premise licensee who has been found guilty of selling alcoholic beverages to minors on three separate occasions in one calendar year.
<b><i>Dram Shop Liability</i></b>	The licensee may also be held liable in civil suits when the sale or furnishing of alcoholic beverages is found to be the proximate cause of damage, injury or death of an innocent party. A separate Dram Shop Liability section is located on page 17.

### Penalties for Minors

Michigan law does provide for penalties for minors who purchase, attempt to purchase, consume, attempt to consume, possess or attempt to possess alcoholic beverages (MCL 436.1703). Effective October 1, 1999 the Secretary of State must suspend the driver's license of any minor convicted of using false identification to purchase alcoholic beverages. The police may also write court appearance tickets which may result in the minor being fined or ordered to attend substance abuse classes.

**Check for ID**

Always check the identification (ID) of a person who appears less than 21 years old. The use of false ID is a serious problem for retail licensees and their employees. Minors attempting to purchase alcoholic beverages sometimes use altered, counterfeit, or someone else's ID. You may be able to deter the use of false ID by informing minors that under MCL 436.1703(2) an attempt to purchase liquor by using false ID is a misdemeanor and is punishable by imprisonment up to 93 days and/or a fine of up to \$100.

**Altered** This is an ID that has been physically changed after it was issued. Typically only the birth date and year are altered.

**Counterfeit** This ID is one that may appear valid, but is fraudulent. Common types of counterfeit identification are birth certificates, driver licenses, and ID cards. Counterfeit ID can also be obtained by using legitimate channels, and will *appear* to be authentic. Many counterfeits are caught when the licensee or clerk takes the time to be sure the ID corresponds to the person in front of them – if the person looks very young yet the ID says they are 30, more questions should be asked. It is not uncommon to ask for additional pieces of ID.

**Someone Else's ID** The use of someone else's ID is also a common occurrence. It may be borrowed, purchased, or obtained illegally. The ID is authentic but does not belong to the person presenting it.

**Detecting False ID**

Examine the ID closely – *can you see erasures, smudges, or the misalignment of letters or numbers? Does the picture match the identity of the person using it?* **Would you cash a personal check for someone using this ID?**

Alterations in driver licenses or ID cards can often be detected with a flashlight. Smudges, alterations and misalignments of seals is apparent and cards issued after June 1987 also have a watermark style coating that is high gloss and more difficult to alter.

Can the person answer questions based on the details of the ID, such as address or the birth date? When did the person graduate from high school? What is their Zodiac sign (if you know it)?

## ILLEGAL SALES

### ***Examining the Identification***

Two types of Michigan driver licenses are currently in use. Some people may renew these by mail (receiving a validation sticker), so both of these types will stay in use for several years.

#### **ISSUED BEFORE JUNE 1998:**



▲ White color with blue photo background. "BUCKLE UP" and "DRIVER LICENSE" are printed in blue and stacked on each side of the MICHIGAN heading. Dime-sized state seals are embossed on front side lamination that can be felt or seen from an angle.

#### **ISSUED AFTER JUNE 1998:**



▲ White color with bright blue photo background. "Under 21 until (date)" printed directly above picture. Outline of the state and the word MICHIGAN is digitally inserted into the front and is visible when held under a light. Back side displays magnetic stripe and bar code. For details see <http://www.michigan.gov/sos>

### **Identification Cards**

ID cards – similar to driver's licenses. The current card says "Identification Card" on it in black.

### **ID Checking Tips**

- If an "Under 21" applicant obtains a new or duplicate license six months in advance of his/her 21<sup>st</sup> birthday, the license will not have the "Under 21" designation – all ages should be verified by checking the date of birth!
- A "D" at the end of the number in the lower right corner indicates that the license or ID card is a DUPLICATE.
- Make sure the photo, height and eye color match the person in front of you, if any do not match ask for a second piece of ID. People with fake ID's rarely carry back-up identification.

**STILL DOUBTFUL?** If you have any doubt about a person's age or the validity of their ID, you have the right to refuse to serve or sell alcohol to them. The loss of one legitimate sale is significantly less than the cost of a liquor violation both in the short term and long term operation of your business.

## TEST YOURSELF WITH THESE QUESTIONS

- Q. *Can you sell beer to a person under 21 years of age if that person is accompanied by a parent?*
- A. **No. At no time may alcoholic beverages be sold or furnished to a person under 21 years of age. [MCL 436.1801 and 436.1701] The parent or guardian may not legally purchase alcohol for the minor.**
- Q. *A young appearing customer produces a Michigan driver's license and two other pieces of ID indicating an age of 22 years. Your employee believes this customer is only 19 years old. Must your employee sell alcoholic beverages to this customer?*
- A. **No. It is your responsibility and that of your employees to ensure that no one under the age of 21 is sold alcoholic beverages. If you or an employee think the person may be under the age of 21, DO NOT SELL alcoholic beverages regardless of the ID shown. [MCL 436.1801 and 436.1701]**
- Q. *If you or an employee sell alcoholic beverages to a customer who produced a Michigan driver's license and two other pieces of ID indicating his or her age to be 22 years and it is later determined by a police officer that the customer is actually 19 will YOU be charged with a violation? If so, how will it be treated by the Commission?*
- A. **Yes. You may be found guilty of selling alcohol to a minor. However, proof that a driver's license or other acceptable ID was diligently examined can be used as a defense. Depending on the appearance of the individual and the quality of the proof of age used, consideration of these factors could be used regarding the penalty. [MCL 436.1701]**
- Q. *Your bartender sold two pitchers of beer and provided four glasses to a customer who was over 21 years old. The customer took the beer and glasses to a table in a dark corner of the bar where other people were sitting. Later, Commission investigators saw four patrons drinking and discovered that the other three people at the table were only 18 years old. Are you at fault?*
- A. **Yes. The licensee is responsible for the control of the bar, including who is given and who is consuming alcoholic beverages. You can be cited for two violations: 1) furnishing alcoholic beverages to persons under 21, and 2) allowing persons under 21 to consume alcohol on the licensed premises. The bartender can also be arrested and charged with a misdemeanor. [MCL 436.1801, 436.1701 and Rule 436.1009]**

**TEST YOURSELF WITH THESE QUESTIONS (continued)**

- Q. *A clerk in your party store was very busy serving customers. Two youthful-looking boys purchased a case of beer from the clerk who felt too busy to check for ID. A police officer stopped the boys and discovered they were only 16 years old. Can the clerk get into trouble?*
- A. **Yes. A person who knowingly sells to someone under age 21, or who fails to make a diligent inquiry as to the customer's age, may be arrested and charged with a misdemeanor. The licensee can also be charged with a violation before the commission because the licensee is responsible for the acts of employees. [MCL 436.1801 and 436.1701]**
- Q. *An employee of your party store delivers an order, which includes alcoholic beverages, to a customer's home. The customer who ordered and paid for the merchandise is not at home. Can the employee deliver the order to the customer's 19-year-old daughter?*
- A. **No. This is considered a sale to a minor since the definition of a sale also includes "furnishing" alcoholic liquor. [MCL 436.1701 and Rule 436.1527]**
- Q. *You would like to hire your son, who is 17, to work as a part-time bartender in your licensed establishment. Can he work for you in this capacity?*
- A. **No. A licensee cannot allow any person less than 18 years of age to sell or serve alcoholic beverages. [Rule 436.1009]**
- Q. *You employ a 16 year old as a cashier in your party store. Can she ring up and collect the money for the sale of alcoholic beverages?*
- A. **No. An employee selling alcoholic beverages must be at least 18 years old. However, the employee can do other jobs that do not involve alcoholic beverages. [Rule 436.1009]**

## ILLEGAL SALES

### *Intoxicated Customers*

- ❖ **Do not sell or serve alcoholic beverages to a person who is intoxicated.**  
[MCL 436.1801 and 436.2025, and Rule 436.1005]
- ❖ **Do not allow an intoxicated person to consume alcoholic beverages on the licensed premises.** [Rule 436.1005]

### **Licensee Penalties**

There are serious penalties for selling or furnishing alcoholic beverages to a visibly intoxicated person:

**Misdemeanor** A liquor licensee who sells or furnishes alcoholic beverages to a visibly intoxicated person may be found guilty of a misdemeanor (MCL 436.1909).

**MLCC Violation** A licensee who sells or furnishes alcoholic beverages, or whose employees sell or furnish alcoholic beverages, to a visibly intoxicated person may be charged with a violation of the liquor laws. Penalties for violations can be severe and can include loss of the license.

**Dram Shop Liability** The licensee may also be held liable in civil suits when the sale or furnishing of alcoholic beverages to a visibly intoxicated person is found to be the proximate cause of damage, injury, or death of an innocent person. *(A separate section on Dram Shop Liability is included on page 17 of this booklet.)*

### **Signs of Intoxication**

It is the responsibility of licensees and their employees to make certain that no one is allowed to become intoxicated on the licensed premises, and that anyone who enters the licensed premises in an intoxicated condition not be allowed to purchase or consume any alcoholic beverages.

Intoxication is a gradual process of losing control of emotional, mental, and physical capabilities caused by excessive alcohol consumption. Because intoxication is a progressive reaction, licensees and employees need to understand and be able to identify when customers are approaching intoxication and how to manage their consumption.

At first customers may display more emotion than usual – followed by a loss in judgement. At this stage, they may not be capable of determining whether they have had too much to drink. If allowed to continue consuming alcoholic beverages, they will likely display the classic signs of intoxication which are easily detectable. These include staggering, slurred speech, drowsiness, dilated eyes, loud or boisterous behavior or abnormally quiet behavior.

## ***Intoxicated Customers (continued)***

<b>Training</b>	Many excellent training courses are available to aid licensees and their employees in identifying intoxicated persons and methods for moderating customer alcohol intake. Contact your association, the local police or sheriff's department, or the Liquor Control Commission for information and a schedule of trainers and sessions.
<b>Intoxicated Licensee Or Employees</b>	No person on the licensed premises, including the licensee or employees, should be intoxicated (R436.1005(3)).

## ***TEST YOURSELF WITH THESE QUESTIONS***

Q. *Can you or an employee serve a drink to a customer who is intoxicated if the drink is PURCHASED by a friend of the customer who is NOT intoxicated?*

A. **No. A licensee or employee may not allow the intoxicated person to purchase or CONSUME alcohol. Licensees and employees should be alert to attempts to violate the law in this manner. [Rule 436.1005]**

Q. *Can you or an employee consume alcoholic beverages while on duty?*

A. **SDM and SDD licensees and their employees may not drink alcoholic beverages while on duty. Rule 1511 prohibits any open containers of alcoholic liquor on the premises (except sample bottles or cans).**

**Existing regulations do not prohibit an on-premise licensee or employee from consuming alcoholic beverages while working, however the Commission rules very specifically prohibit either a licensee or an employee from being INTOXICATED on the licensed premises.**

**Most licensees find it a good business practice not to drink or allow their employees to drink while working.**

Q. *Every bar needs regular customers to thrive financially. While you are tending the bar, one of your best customers staggers in the door and tells you to get a round of drinks for everyone. This customer's speech is slurred, his eyes are dilated and he appears clumsy and drowsy. In view of the fact that he lives only a block away, is there any harm in serving him one drink with the understanding that after that his is to head home?*

A. **Yes. At no time are you allowed to sell or serve alcoholic beverages to an intoxicated person regardless of how close-by they live. The customer's visible signs of intoxication should alert you not to serve the person. It would be wise to offer that person some food or a non-alcoholic beverage as an alternative to sending them back onto the street. Remember that under Michigan's Dram Shop laws, you may be financially liable for any accidents resulting from the sale of alcohol to an intoxicated person. [MCL 436.1801, 436.2025 and Rule 436.1005]**

## TEST YOURSELF WITH THESE QUESTIONS

- Q. *The police receive a complaint from a person who lives next to your party store that several persons are drinking alcoholic beverages and creating a disturbance in your parking lot. When the police arrive, they determine that the alcoholic beverages being consumed were purchased at your party store and that the customers are of legal age. Can YOU be cited for a liquor violation?*
- A. **Yes, if you allowed the persons to drink the alcoholic beverages in your parking lot. An off-premise licensee is responsible for actions in the licensed business and on all property next to the licensed business which is controlled by the licensee.** [Rule 436.1523(2)]
- Q. *Are slurred speech, red eyes and or dilated pupils, slow response time to questions, and loud boisterous or quiet secluded behavior signs of intoxication which might prevent you from serving a customer?*
- A. **Yes. A customer displaying some or all of these characteristics is likely to be intoxicated. It is in your best interest NOT to serve this customer any alcoholic beverage.**

## ILLEGAL SALES

### *Dram Shop Liability*

- Sales of alcoholic beverages to persons under 21 and to visibly intoxicated persons can result in civil liability suits when the sale is shown to be the proximate cause of damage, injury or death of an innocent person. [MCL 436.1801]
- Effective April 1, 1988, all applicants for retail liquor licenses and existing retail liquor licensees are required to file proof of financial responsibility of not less than \$50,000 before a license is issued or renewed. [MCL 436.1803]

## YOU SHOULD ALSO KNOW

### **Liability**

Dram Shop statutes in Michigan, like those in other states, acknowledge a social problem by imposing a legal responsibility on the retail liquor licensee. The purpose of the Dram Shop laws is to provide legal resources for an innocent person who is injured when the sale or furnishing of alcohol is proven to be a proximate cause of damage, injury or death.

This civil liability is separate from violation penalties which the Commission may impose, and criminal penalties which the courts may impose. **You can lessen your financial vulnerability by never serving alcoholic beverages to people who are less than 21 years old, or who are visibly intoxicated.**

## **Lawsuit Limitations**

There are certain provisions in the Dram Shop liability laws which place limits on civil suits. From the licensee's standpoint, the significant provisions are:

- A rebuttable presumption that any licensee, other than the last one to sell or furnish alcohol to the underage or visibly intoxicated person, is not liable.
- Neither the visibly intoxicated person nor any person who has lost the financial support, services, love, guidance, society, or companionship of the visibly intoxicated person, has a cause for action against the licensee.

## **Financial Responsibility**

As of April 1, 1988, all retail liquor licenses applicants and retail liquor licensees must provide to the Liquor Control Commission proof of financial responsibility of at least \$50,000. A licensee must maintain at all times a minimum of \$50,000 as full or partial payment of a judgment awarded as the result of a Dram Shop lawsuit.

The method most often used by licensees to meet this requirement is purchase of a liquor liability insurance policy worth at least \$50,000. Other acceptable means of complying include depositing \$50,000 in cash or unencumbered securities with the Commission.

### **TEST YOURSELF WITH THESE QUESTIONS**

- Q. *What happens if the Commission receives a cancellation of the Dram Shop coverage?*
- A. **After verifying that the business is still operating, a letter and Commission Order of Suspension are sent to the licensee with a new "Proof of Financial Responsibility" form.**
- Q. *What happens if I have sent my license in for escrow and a cancellation notice is received?*
- A. **Licensing does not send an Order of Suspension to the licensee in this case. However, the records are marked to indicate that prior to reactivation of the license, a new proof of financial responsibility will be required.**
- Q. *What action is taken if no proof of financial responsibility is received by the suspension date?*
- A. **Licensing staff notifies the Enforcement Division to confiscate the license according to the provisions of the Suspension Order.**
- Q. *Why do we receive the Order of Suspension long before the new proof is required?*
- A. **The law requires both the licensee and insurance carrier to provide at least 30 days notice to MLCC that the insurance policy will be canceled or terminated. The Licensing Division attempts to give you ample time to renew the coverage or make the appropriate premium payment to remain in compliance with the statutory requirements.**

## TEST YOURSELF WITH THESE QUESTIONS

- Q. *Is it necessary to provide proof of financial responsibility every year with the renewal application?*
- A. **Liquor Liability coverage only terminates upon written notice from the carrier or provider which may be received at any time throughout the year. Unless your coverage has been canceled during the renewal processing period, you do not need to send documents substantiating your coverage.**
- Q. *If I sign the LC-95 form indicating coverage or send a paid receipt, will this stop a cancellation?*
- A. **No. The LC-95 requires certification of coverage by an authorized agent or representative of the insurance carrier or institution providing such coverage.**

## PROHIBITED CONDUCT

### *Drugs, Violence, Gambling, Sexual Activity, Etc.*

- |                                     |  |
|-------------------------------------|--|
| <i>Drugs, Controlled Substances</i> | <ul style="list-style-type: none"> <li>• <b>Do not allow the sale, possession, or consumption of any controlled substances on the licensed premises. [Rule 436.1011]</b></li> <li>• <b>Do not allow narcotics paraphernalia to be sold, exchanged, used or stored on the licensed premises. [Rule 436.1011]</b></li> </ul> |
| <i>Violence, Fighting, Weapons</i>  | <ul style="list-style-type: none"> <li>• <b>Do not allow fighting, brawling, or the improper use of any weapons on the licensed premises. [Rule 436.1011]</b></li> </ul>   |
| <i>Gambling, Gaming Devices</i>     | <ul style="list-style-type: none"> <li>• <b>Do not allow illegal gambling or gaming devices on the licensed premises. [Rule 436.1013]</b></li> </ul>   |

Any illegal gambling device or items used for illegal gambling purposes as determined under Michigan laws, will be confiscated and destroyed if found on the licensed premises regardless of whether they are owned by the licensee or another party.

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|---|---|
| <i>Nudity, Sexual Activity, 436.1916]</i><br><i>Molesting, Soliciting</i> | <ul style="list-style-type: none"> <li>• <b>Do not allow total nudity or any sexual activity on the licensed premises. [MCL 436.1916 and Rule 436.1411]</b></li> <li>• <b>Do not allow the showing of films, slides, television, or other electronic media which show the genitals, or real or simulated sexual activity. [Rule 436.1916 and 436.1409]</b></li> <li>• <b>Do not allow the annoying or molesting of customers or employees by other customers or employees. [Rule 436.1011]</b></li> </ul> |
|---|---|

## PROHIBITED CONDUCT

***Drugs, Violence, Gambling, Sexual Activity, Etc.***

- **Do not allow the licensed premises to be used for solicitation for prostitution by either customers or employees. [Rule 436.1011]**

### ***Awareness is Key***

- Observe** It is your responsibility as the licensee to always maintain control of the licensed premises. This means that you and your employees must always be observant of customers and situations.
- Evaluate** If you or your employees observe what appears to be an illegal act, you need to evaluate the situation. Some situations can be easily handled by talking to the customers. Others may require a more forceful stance. Some situations may be dangerous for either you or your employees or other customers. Always evaluate the people and the situation to determine the best course of action.
- Act** Since you do not have enforcement authority, you cannot arrest anyone. However, you or your employees can demand that a customer(s) leave the premises. If the situation appears threatening, call the local police. Be aware, however, that excessive police calls may result in violations being charged against you or a request from the local unit of government that the Liquor Commission revoke or not renew your license. Don't let your premises become a place noted for illegal activities thereby jeopardizing your liquor license and your standing in the business community.

### ***TEST YOURSELF WITH THESE QUESTIONS***

- Q. *You notice that a person always comes into your restaurant at the same time every day and sits at the same table if possible. Lots of different people come and visit this customer for a short period of time. Finally, you see an exchange of money and the customer passes a small package to the visitor that you believe may contain illegal drugs. Could this be a violation?*
- A. **Yes. Allowing the sale, possession, or use of any controlled substances on the licensed premises is a violation. If you suspect that a customer(s) is dealing drugs on you licensed premises, you should express your concern for receiving a liquor code violation and ask them to leave. [Rule 436.1011]**
- Q. *A husband calls you and threatens to contact the Commission or local police if you do not stop his wife from playing pool and euchre for money when she comes into the bar. You know that the woman never plays for much and can afford her losses. Should you stop her?*

**TEST YOURSELF WITH THESE QUESTIONS (continued)**

- A. Yes. State law prohibits any unlawful gambling (as well as any gambling devices prohibited by state statutes) on the licensed premises. The only “legal gambling” is that authorized by the Michigan Bureau of State Lottery [Rule 436.1013, and Michigan Gaming Control and Revenue Act]**
- Q. Your restaurant is approached by a local charitable group who wishes to use a banquet room to hold a “Las Vegas Night.” All the proceeds from the event will be used to provide gifts for needy children, and your restaurant will cater all food and drinks. Is this activity OK?*
- A. Only if the charity obtains the proper license from the Charitable Gaming Division of the Bureau of State Lottery for the gambling activity. [Rule 436.1013]**
- Q. A licensed establishment has a regular customer who is extremely obnoxious. This customer insults another customer, who is known for fighting, and the other customer starts throwing punches. In view of the fact that the obnoxious customer probably needs to be taught a lesson, the employees allow him to be beaten up. Would their lack of action be justified?*
- A. No. Allowing fights on the licensed premises is illegal. Consider also that the licensee may be sued by either or both parties. [Rule 436.1011]**
- Q. Your bartender is a bit “nosey” and overhears a person soliciting an entertainer to commit prostitution. As she listens in on the conversation she also hears the person uttering annoying phrases and observes the person molesting the entertainer. In these circumstances should you take action or tell the bartender to “mind her own business?”*
- A. You should take action. Licensees and their employees may not allow the annoying or molesting of customers or employees by other customers or employees. In addition, licensees cannot allow accosting or soliciting for the purposes of prostitution. In both cases, the licensee is liable. [Rule 436.1011]**
- Q. A drastic change may be needed to improve business. Someone suggests either nude dancers or “porno” movies. Since you cater to totally adult clientele and have no homes in the area surrounding your business, could you make either of these changes?*
- A. No. An on-premise licensee could be cited before the Commission if either change was made. The law prohibits the display of total nudity, including the pubic region, genitals, or anus live or on film. It also prohibits explicit or simulated sexual activities, either live or on film. Do not jeopardize your investment by allowing any of these activities.**

**\*Refer to the MLCC Administrative Rules for a description of all prohibited acts. [Rules 436.1409 and 436.1411]**

# OPERATING THE LICENSED BUSINESS

## *Hours and Days of Operation*

### *Monday through Saturday*

- Do not sell alcoholic beverages (beer, wine, or liquor) between the hours of 2 a.m. and 7 a.m. Monday through Saturday. [Rule 436.1403 and 436.1503]

### *Consumption On-premise*

- Do not allow anyone (including yourself or employees) to consume alcoholic beverages on the licensed premises between 2:30 a.m. and 7 a.m. Monday through Saturday, between 2:30 a.m. and 12 noon on Sundays, after 9:30 p.m. on December 24, or after 4:30 a.m. on January 1. [Rule 436.1403]

### *Sunday Sales*

- Do not sell beer, wine or liquor on Sunday between 2 a.m. and 12 noon. [MCL 436.2113 and Rule 436.1403 and 436.1503]

- Do not sell liquor between noon and midnight on Sunday unless you are issued a Sunday Sales permit by the Liquor Control Commission. [MCL 436.2115]

### *Christmas Sales*

- Do not sell any alcoholic beverages between 9 p.m. on December 24 (Christmas Eve) and 7 a.m. on December 26, (the day after Christmas).

\* However, the establishment may be open for the sale of other goods and services.

- If December 26 is on a Sunday, the sale of alcoholic beverages is governed by the Sunday Sales law. [MCL 436.2113(5) and Rule 436.1403]

### *New Years Sales*

- On-premise licensees – Do not sell alcoholic beverages between 4 a.m. and 7 a.m. on New Years Day. [Rule 436.1403]
- Off-premise licensees – (party, drug, grocery stores, etc.) – Do not sell alcoholic beverages between 2 a.m. and 7 a.m. on New Years Day. [Rule 436.1503]

### *Election Day Sales*

- Unless prohibited by local ordinances, alcoholic beverages may be sold on Election Day during the regular hours. Check with your local governing body (city council, township board, etc.) to determine whether you may sell alcoholic beverages on election days. [MCL 436.2113]

## TEST YOURSELF WITH THESE QUESTIONS

- Q. *You have a small neighborhood convenience store with licenses to sell beer, wine and liquor. Can you open on Christmas Day?*
- A. **Yes. However, you cannot sell any alcoholic beverages.** [MCL 436.2113]
- Q. *You have a small restaurant with a Class C liquor license and have been thinking about opening on Sunday. Can you sell alcoholic beverages after 12 Noon?*
- A. **Only if you have a Sunday Sales Permit issued by the Liquor Control Commission and Sunday Sales are legal in your governmental unit. To obtain a Sunday Sales Permit application contact the Liquor Control Commission Licensing Division at (517) 322-1400.** [MCL 436.2115 and Rule 436.1403]
- NOTE:** *You can sell beer or wine on Sunday after 12 noon without a Sunday Sales Permit (unless prohibited by local ordinance), but you need the Sunday Sales Permit to sell spirits on Sunday.*
- Q. *A customer in your 24-hour grocery store purchases a case of beer, along with other merchandise at 12:30 a.m. He asks an employee to hold these purchases for a later pick up. At 2:30 a.m. the customer returns to the store and the employee hands over the merchandise, including the beer. Has a violation taken place?*
- A. **Yes. Remember, the sale is not completed until the customer takes possession of the merchandise.** [Rule 436.1503]

## OPERATING THE LICENSED BUSINESS

### *License & Location*

- **Do not sell or transfer an interest in a licensed business without written approval of the Commission.** [MCL 436.1529]
- **Do not obtain a license for the use or benefit of a person whose name does not appear on the license.** [Rule 436.1041]
- **Do not alter the size or lease a portion of the licensed premise without Commission approval.** [Rule 436.1023]
- **Do not close the business for more than one month without returning the license for escrow.** [Rule 436.1047]
- **Be sure to renew a retail liquor license by May 1 of each year.** [MCL 436.1501]

<b>TEST YOURSELF WITH THESE QUESTIONS</b>
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- Q. *You are a sole stockholder in a licensed corporation. You need additional funding so you sold half of your corporate stock to a friend and then notified the Commission. Did a violation take place?*
- A. **Yes. Commission approval is required as stockholders must be fingerprinted and investigated and approved prior to obtaining 10% or more of the corporate stock in a licensed corporation. [Rule 436.1115]**
- Q. *You decided that your licensed business does not generate sufficient funds to defray your operating costs. You want to seal off a small portion of the licensed premises and lease it to an acquaintance to open a flower shop. Would this change in business space create a problem with your liquor license?*
- A. **Yes. A licensee may not add or drop space from the licensed premise without prior Commission approval. The Commission requires that the licensee be legally responsible for the entire licensed premises so licensed premises may not be leased or rented to others. [Rule 436.1023]**
- Q. *Must you get permission from the Liquor Control Commission before adding or dropping a partner?*
- A. **Yes. You must get Commission approval prior to any change in ownership. [MCL 436.1529]**
- Q. *Your landlord wants you to sign a new lease wherein he receives 5% of the net profits from your business as the annual rent. Is the landlord within his/her rights to request this?*
- A. **No. Only the licensee may take net profits from the business. [Rule 436.1041 and 436.1117]**
- Q. *You want to construct an outside patio for the service of food and alcoholic beverages. Since the patio would be located in an area next to the licensed business, do you need to get prior approval from the Liquor Control Commission?*
- A. **Yes. The Commission requires that licensees obtain permission for an outdoor service area prior to construction – even if it is immediately next to the licensed business. [Rule 436.1419]**

# OPERATING THE LICENSED BUSINESS

## *Purchases & Sales*

### BUYING AND SELLING ALCOHOLIC BEVERAGES

#### *All Licensees*

- Do not purchase beer, wine, or liquor from unauthorized sources. All retail licensees must buy beer and wine from their designated licensed wholesalers. All liquor must be purchased from the state and delivered by an Authorized Distribution Agent with one exception – an on-premise licensee may purchase up to 9 liters of spirits from a retail licensee per month. [MCL 436.1203, 436.1205 and Rule 436.1033]

- Do not sell alcoholic beverages below cost. [Rule 436.1055]

- Do not adulterate or misbrand alcoholic liquors. Do not refill bottles with either the same brand or a different brand. [MCL 436.2005]

#### *Off-premise*

##### *Licensees Only*

- Do not sell package liquor at any price other than the price established by the Liquor Control Commission. [MCL 436.1229, 436.1233, and Rule 436.1529] All alcoholic liquor purchases must be for cash only. [MCL 436.2013]

#### *On-premise*

##### *Licensees Only*

- Do not allow alcoholic beverages sold for consumption on the premises to be removed from the premises. [MCL 436.2021]

- Alcoholic liquor tap markers must be marked to identify the brand of alcoholic liquor being sold. If the brand being sold is changed, the tap marker must also be changed. [Rule 436.1331]

- An on-premise licensee and their employees are not permitted to solicit customers for the purchase of alcoholic beverages for themselves or any other person. [Rule 436.1417]

- When a person orders a brand name alcoholic liquor, the licensee shall serve and sell only the brand name ordered by that person. [Rule 436.1431]

#### *Club Licensees Only*

- Do not sell to anyone who is not a bona fide member of the club. [MCL 436.1537]

#### *Internet Sales*

- Any person who sells alcoholic beverages in the State of Michigan must have a license from the Michigan Liquor Control Commission. In order to sell alcoholic beverages in Michigan you must have a qualified, licensed retail business. You can ship alcoholic beverages from a licensed store in Michigan to customers who are also in the state of Michigan except for deliveries to campuses of 2 or 4-year colleges unless it is to a licensee on campus. [Rule 436.1861]

## OPERATING THE LICENSED BUSINESS

### *Purchases & Sales (continued)*

- The purchaser and person receiving the delivery must be 21 years of age or older and be able to provide acceptable Michigan identification. [Rule 436.1527]
- It is illegal for anyone from outside the State of Michigan to ship alcoholic beverages to retail customers in the State of Michigan. The Michigan Attorney General has already begun prosecuting businesses outside the state who are selling alcohol to Michigan residents – especially those residents under age 21.
- Alcohol MAY be shipped from Michigan into another state IF all of the regulations of the other state are met. To date, 28 states have banned direct shipping on alcohol products.

## OPERATING THE LICENSED BUSINESS

### *Taxes*

**Licensees must comply with state and federal tax requirements on the retail sale of alcoholic beverages:**

- Federal Tax – the base price contained in the liquor price list includes a \$13.50 tax against each proof gallon.
- State Taxes – **Specific Taxes** – specific taxes on liquor are collected by the Commission at the time of sale to the retail licensee. All specific taxes are calculated on the base price. These taxes will be shown on the licensee's invoice. The specific taxes include:
  - 4% - distributed to School Aid Fund
  - 4% - distributed to the General Fund
  - 4% - distributed to the Conventional Facility Development Fund
  - 1.85% - distributed to the Liquor Purchase Revolving Fund
- Michigan Sales Tax is computed on top of the "SDD shelf price" for liquor shown in the MLCC price list for off-premise licensees. The sales tax **cannot** be included in the shelf price or the advertised price but is collected from the consumer at the time of retail sale. **The licensee must send all sales tax to the Michigan Department of Treasury.**

### **TEST YOURSELF WITH THESE QUESTIONS**

- Q. *If your bar runs short of it's most popular brand of liquor on Saturday night, can your bartender go to the liquor store down the street and buy six bottles of the brand?*
- A. **Yes – Bars must purchase all spirits from the MLCC and have them delivered by an Authorized Distribution Agent except for a 9 liter allowance provided per month. You should develop inventory management practices that will reduce the possibility of running short of popular brands. If you do run out you might suggest alternate choices to your customers. [MCL 436.1205(10)]**

<b>TEST YOURSELF WITH THESE QUESTIONS</b>
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- Q. *A frequent customer of your SDD party store asks for a certain brand of liquor as part of a large order. You do not have this brand in stock. In order to satisfy your customer and not lose future sales, you send an employee to a nearby package liquor store to purchase the missing items. Has a violation taken place?*
- A. **Yes. An SDD licensee can only purchase spirits from the MLCC with delivery by an authorized distribution agent. An SDM licensee can only purchase beer and wine from a wholesale licensee. [Rule 436.1033]**
- Q. *May you sell homemade wine or beer?*
- A. **No. A licensee may not sell alcoholic beverages that are not purchased from the MLCC with delivery by an Authorized Distribution Agent or a licensed wholesaler. [Rule 436.1033]**
- Q. *Your SDD party store regularly sells 10 to 12 bottles of liquor to the bar next door. Because the bar is a regular customer and buys large amounts, you give a 10% discount off the retail price set by the Commission and collect payment monthly. Is this a violation?*
- A. **Yes. SDD licensees must sell liquor at a uniform price established by the Commission. They are only allowed to sell 9 liters of spirits to any on-premise licensee per month, and SDD licensees must also sell for cash and cannot allow collection of monthly payments. [MCL 436.1205, 436.1229, 436.1233 and .2013, and Rule 436.1033]**
- Q. *A beer truck driver tells you that if you buy 30 cases of a certain brand, an additional 2 cases will be included with the order at no charge. Is this a violation?*
- A. **Yes. Both you (as the retail licensee) and the wholesaler would be cited before the Commission. The retail licensee cannot accept purchasing incentives of any kind, including free alcoholic beverages. The wholesaler can only sell at the posted price. [MCL 436.1609 and Rule 436.1035]**
- Q. *One of the waitresses who work in your bar has a terrific personality. When she is not busy serving, she sits with customers and talks and jokes with them. Frequently she gets them to buy her expensive drinks that increase your profits considerably. You would like to train all of the waitresses to follow her example. Would there be a problem with this sales tactic?*
- A. **Yes. Anyone who serves food or liquor is prohibited from soliciting drinks from customers for themselves or others. Ask your waitress with the terrific personality to serve customers only. [Rule 436.1417]**

**TEST YOURSELF WITH THESE QUESTIONS (continued)**

- Q. *Can you sell alcoholic beverages to a friend who occasionally comes in to a private club even though she is not a club member?*
- A. **No. Club licensees should never sell alcoholic beverages to anyone who is not a bona fide club member. However, it is permissible for a club member to purchase alcoholic beverages for his or her guests. [MCL 436.1537]**

## **OPERATING THE LICENSED BUSINESS**

**Promotions**

- **Do not allow contests giving away anything in excess of \$250 without prior Commission approval. [Rule 436.1435]**
- **Do not give away any alcohol of any kind or description at any time in connection with the licensed business except manufacturers for consumption on the premises, licensed vendors for tastings, or Class A or B Resort Hotels. [MCL 436.2025]**
- **Do not allow contests or tournaments in which alcoholic beverages are used or given as prizes. [Rule 436.1019 and Rule 436.1435]**
- **Do not allow or advertise promotions that may encourage excessive alcohol consumption. Specifically, “open bars,” “two-for-one drinks” and “all you can drink for one price” promotions are illegal. [Rule 436.1438]**
- **Do not allow promotions of any kind in which anything of value in excess of \$250 is given away unless prior Commission approval is obtained. [Rule 436.1435]**
- **Do not hold any contest or allow any performance on the licensed premises without an Entertainment Permit. [MCL 436.1916\*, \*section also covers exceptions]**
- **Do not allow Topless Activity on the licensed premises without a Topless Activity Permit. [MCL 436.1916]**

**TEST YOURSELF WITH THESE QUESTIONS**

- Q. *To try and promote business on a slow night, you decide to have a talent show, allowing any of your customers to perform. The winners, as determined by the audience, will receive gag gifts, none of which will cost you more than \$3. Do you need an Entertainment Permit in order to conduct the talent show?*
- A. **Yes. Even though the prizes have minimal value and the entertainers are unpaid, an Entertainment Permit is required before any type of contest may be held. [MCL 436.1916]**
- Q. *As a prize in your weekly dance contest, you want to give the winning couple a bottle of domestic champagne. Because the price of the champagne is below the \$50 limit for prizes, is it a permissible prize?*
- A. **No. Alcoholic beverages cannot be given as prizes, regardless of their value. [Rule 436.1019, Rule 436.1435]**

<b>TEST YOURSELF WITH THESE QUESTIONS (continued)</b>
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Q. Can I advertise a special price on a certain brand of alcoholic beverage?

A. Yes, with certain restrictions. Retail licensees (both on- and off-premise) are allowed to advertise specific brands and prices in any media (newspapers, radio, TV, billboards and signs both at the retail establishment and elsewhere) provided:

- You do not advertise or sell any alcoholic beverage at less than your cost.
  - On-premise licensees do not advertise or sell an unlimited quantity of alcohol at a specific price.
  - You do not advertise two or more drinks for one price.
  - You do not receive any aid assistance from a wholesaler or manufacturer.
- [MCL 436.1609, Rule 436.1035 and 436.1319]

<b>MLCC Contact Directory</b>
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If you need additional assistance please contact the Commission at any of the phone numbers or addresses listed below.

Lansing – Michigan Liquor Control Commission  
 7150 Harris Drive, P.O. Box 30005  
 Lansing, Michigan 48909

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|------------------------|----------------|--------------------|
| • General Information  | (517) 322-1345 |                    |
| • Enforcement Division | (517) 322-1370 | FAX (517) 322-1040 |
| • Financial Management | (517) 322-1382 | FAX (517) 322-1016 |
| • Licensing            | (517) 322-1400 | FAX (517) 322-6137 |
| • Commission Office    | (517) 322-1355 | FAX (517) 322-5188 |

Farmington – Commission Offices      (248) 888-8840      FAX (248) 888-8844

Enforcement District Offices

- |   |                |                    |
|---|----------------|--------------------|
| • <b>Farmington</b><br>24155 Drake Road<br>Farmington, MI 48335   | (248) 888-8710 | FAX (248) 888-8707 |
| • <b>Escanaba</b><br>State Office Building<br>305 S. Ludington, 2 <sup>nd</sup> floor<br>Escanaba, MI 49829 | (906) 786-5553 | FAX (906) 786-3403 |
| • <b>Grand Rapids</b><br>2942 Fuller, NE<br>Grand Rapids, MI 49505  | (616) 447-2647 | FAX (616) 447-2644 |